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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/996,849	11/27/2001	Michael K. Davis	50031-0020	4891
36178	7590	02/14/2006	EXAMINER	
LEE G. MEYER, ESQ. MEYER & ASSOCIATES, LLC 17462 E. POWERS DRIVE CENTENNIAL, CO 80015-3046				KNEPPER, DAVID D
ART UNIT		PAPER NUMBER		
		2654		

DATE MAILED: 02/14/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	Application No.	Applicant(s)
	09/996,849	DAVIS ET AL.
	Examiner David D. Knepper	Art Unit 2654

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) Responsive to communication(s) filed on 11 March 2005.
- 2a) This action is FINAL.                    2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) Claim(s) 1-17 is/are pending in the application.
  - 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) Claim(s) \_\_\_\_\_ is/are allowed.
- 6) Claim(s) 1-17 is/are rejected.
- 7) Claim(s) \_\_\_\_\_ is/are objected to.
- 8) Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on \_\_\_\_\_ is/are: a) accepted or b) objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
  - a) All    b) Some \* c) None of:
    1. Certified copies of the priority documents have been received.
    2. Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
    3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)	4) <input type="checkbox"/> Interview Summary (PTO-413)
2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)	Paper No(s)/Mail Date. _____.
3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) Paper No(s)/Mail Date _____.	5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)
	6) <input type="checkbox"/> Other: _____.

1. Applicant's correspondence filed on 11 March 2005 has been received and considered.  
Claims 1-17 are pending.

The application was abandoned (Notice of Abandonment, 6 Oct 2005) because the above correspondence was not timely filed.

The applicant filed a petition to revive (12 Oct 2005) which was granted on 16 Nov 2005 and therefore the response of 11 March 2005 may now be considered.

**Title**

2. The title is objected to because it is too long and conflicts with the claimed invention.

The title of the invention uses the term "heterogeneous protocols" which requires dissimilar or diverse protocols. To the contrary, the claims clearly indicate that the protocols may be the same. A new title is required that is clearly indicative of the invention to which the claims are directed.

**Claims**

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary

skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. Claims 1-17 are rejected under 35 U.S.C. § 103 as being unpatentable over Cilurzo (6,434,526).

“Facilitating the exchange of speech recognition and transcription” is taught by Cilurzo with his speech server 300, figure 3:

“at least one system transaction manager... one of the users employing a first system protocol.. more of the users employing a second system protocol that may be the same or different” (taught by his network server 202, figure 3); and

“at least one speech recognition and transcription engine” (taught by his speech manager 300 and speech engine 304 which facilitate speech recognition to be communicated to the user or users as necessary over the network – the transcription result is described in col. 5, lines 22-23: As the user dictates, the message appears in print on his screen.).

It is noted that Cilurzo does not explicitly use the term “speech information request”. However, he teaches it is an object of the present invention to provide, on a network, specific application software with a speech recognition capability (col. 2, lines 46-48). It would have been obvious for a person having ordinary skill in the pertinent art, at the time the invention was made, to combine Cilurzo’s system with a variety of requests for information because he teaches that his system is for use with any type of application software and computers are capable of handling and providing a great variety of information such as his teachings of radiology (col. 1, line 65-col.2, line 5), Lotus Notes (col. 5, line 21), medical information (col. 5, line 34) or chat sessions (col. 6, line 2). Thus, it would have been obvious to use speech recognition for requests

of any information that a computer may manipulate because Cilurzo provides examples to include radiology or more general medical information as well as information that humans send to each other using other software such as Lotus Notes or chat software.

Claims 2-13 are directed towards handling speech information for routing to one or more users. This is inherent in the chat session usage suggested by Cilurzo in column 6. As one of ordinary skill in the art is aware, a chat session may be initiated by any user and may involve one or more additional users online regardless of the type of computer they are using.

Claim 14: See claim 1 above. A “uniform system protocol” is inherent in any network based system. Failure to provide a uniform protocol will make a network unstable and unusable for desired communications.

Claim 15: See claim 1 above. The claimed “second user application” is stated to be “the same or different than the first user application” and is therefore a transparent limitation. While Cilurzo clearly teaches that more than one desired application is obvious, this claim does not require more than one since the two are explicitly claimed in such a way that they may be one which allows more than one user.

Claims 16 and 17: See claim 1 above. The claimed “exchanging transcribed spoken text” is an obvious application of the chat sessions noted above. It is noted that the applicant claims that two protocols may be the same. Furthermore, even if the claims said that the protocols were different, the specification fails to teach any unique protocols. Thus, the claimed protocol can only be read on obvious prior art protocols that are suggested by Cilurzo’s suggested use of proprietary intranet network 200 (fig. 3) as well as uniform protocols such as

used on the internet allowing communication with different users employing different combinations of hardware and software (col. 3, lines 28-36 and col. 4, lines 15-20).

### **Response to Arguments**

5. The arguments are not convincing. The claims clearly indicate that the protocols may be the same and therefore the arguments to the contrary are in direct conflict with the claim language.

For example, the arguments on page 11 are without merit. The applicant states: “The Examiner has failed to point to one recitation in Cilurzo, et al. which even hints at a system which can handle non linear, heterogeneous system protocols.” This is because the claims fail to recite any limitations remotely resembling “non linear, heterogeneous system protocols.” The applicant fails to point to one claim recitation using terminology which requires different protocols, while the Examiner has clearly pointed to claim language that embraces the use of “the same” protocol.

Cilurzo clearly teaches that it is well known to provide speech recognition on a server that may be accessed by users to provide recognition and transcription to a variety of other applications connected to the network. The applicant’s arguments do nothing to refute this teaching nor do the laundry list of conclusions on page 13 resemble anything that the applicant has claimed.

Tanenbaum (Computer Networks) is cited as background art that shows how networks may be interconnected (including subnets) using differing protocols. This is a basic college textbook that the Examiner considered using to address the arguments but since the claims do not

have limitations requiring any of the argued limitations, there is no need to combine this with the Cilurzo reference in a rejection. The applicant is urged to compare figure 1 with Tanenbaum's figure 1-3(a) and figure 4 with Tanenbaum's figures 1-5, 1-6, 1-7 because they appear to show identical protocol environments (with the notable absence of any specific applications such as speech recognition).

It is submitted that the claims are much broader than what is argued and that it would be futile for the Examiner to attempt to reconcile the claim limitations with the arguments.

6. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

7. Some correspondence may be submitted electronically. See the Office's Internet Web site <http://www.uspto.gov> for additional information.

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Mail Stop should be omitted if none is indicated.

Effective 14 January 2005, except correspondence for Maintenance Fees, Deposit Accounts (see 37 CFR 1.25(c)(4)), and Licensing and Review) see 37 CFR 5.1(c) and 5.2(c)), please address correspondence delivered by other delivery services (i.e. – Federal Express (Fed Ex), UPS, DHL, Laser, Action, Purolater, etc.) as follows:

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8. Any inquiry concerning this communication or earlier communications from the examiner should be directed to David D. Knepper whose telephone number is (571) 272-7607. The examiner can normally be reached on Monday-Thursday from 07:30 a.m.-6:00 p.m.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Richemond Dorvil, can be reached on (571) 272-7602.

For the Group 2600 receptionist or customer service call (571) 272-2600.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Inquiries regarding the status of submissions relating to an application or questions on the Private PAIR system should be directed to the Electronic Business Center (EBC) at 866-217-9197 (toll-free) or 703-305-3028 between the hours of 6 a.m. and midnight Monday through Friday EST, or by email at [ebc@uspto.gov](mailto:ebc@uspto.gov). For general information about the PAIR system, see <http://pair-direct.uspto.gov>.



David D. Knepper  
Primary Examiner  
**Art Unit 2654**  
February 1, 2006